

REMARKS

The Examiner is thanked for the continued indication that independent claim 19 is allowable.¹

The §101 rejection has been addressed by adding the phrase “computer-implemented” in the preamble of each of claims 1, 4-9 and 19. With these amendments, each of the identified claims clearly apply, involve, use and advance the “technological arts” and include more than a “nominal recitation of technology.”² Respectfully, this rejection should be withdrawn.

Claims 1, 4-9, 13-18 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Castonguay et al., in view of Crockett et al., further in view of Gabriner et al. The Examiner also noted, in paragraph 8, that the Castonguay et al. and Crockett et al. references “constitute prior art under 35 U.S.C. § 102(e).” These patents were and remain commonly-owned with the present application by IEX Corporation. Accordingly, pursuant to MPEP §706.02(1)(2), the undersigned attorney of record states:

(a) application Serial No. 09/465,690 and U.S. Patent No. 6,044,355 issued to Crockett et al. were, at the time of the invention of application Serial No. 09/465,690, owned by IEX Corporation; and

(b) application Serial No. 09/465,690 and U.S. Patent No. 5,911,134 issued to Castonguay et al. were, at the time of the invention of application Serial No. 09/465,690, owned by IEX Corporation.

Under 35 U.S.C. §103(c) and in view of at least statement (a) above, Crockett et al. should be removed as a reference. Without Crockett et al., the §103(a) rejection should now be withdrawn.³

Claims 1, 4-9 and 13-20 are now deemed in condition for allowance, and a Notice


¹ There was an ambiguity in the action in that claim 19 also was identified in paragraphs 3-4 directed to the § 101 rejection. Given the other statements in the office action, the undersigned assumed that claim 19 was included in the § 101 rejection intentionally and thus has amended this claim.

² The undersigned notes that the Examiner has accepted similar method claim phrasing in other patents that he has examined and allowed to issue. See, e.g., U.S. Patent No. 6,801,945, claim 1, issued to Yahoo, Inc.

³ With respect, the existing §103(a) rejection still is believed to be unfounded given the deficiencies in at least the Gabriner et al. reference that were previously described in the preliminary amendment filed March 11, 2005. Those comments are incorporated herein by reference. Nevertheless, in an effort to advance to a close this already lengthy prosecution, the §103(c) showing has been made.

to that effect is respectfully requested.

Date: September 29, 2005



David H. Judson
Registration No. 30,467